

**MILLER BARONDESS LLP**

BEN HERBERT, CA#277356

bherbert@millerbarondess.com

2121 Avenue of the Stars, 26<sup>th</sup> Floor

Los Angeles, CA 90067

Telephone: 310.552.4400

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

LAWRENCE R. LAPORTE, CA#130003

Lawrence.LaPorte@lewisbrisbois.com

633 West 5<sup>th</sup> Street, Suite 4000

Los Angeles, California 90071

Telephone: 213.250.1800

Facsimile: 213.250.7900

Attorneys for Plaintiffs

HYPER ICE, INC. and

HYPERICE IP SUBCO, LLC

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

HYPER ICE, INC., a California  
corporation, and HYPERICE IP  
SUBCO, LLC, a Delaware limited  
liability company,

Plaintiffs,

vs.

MUSCLEGUN LLC, a California  
limited liability company,

Defendant.

CASE NO.

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Trial Date: None Set



1 U.S.C. § 1400(b) because Defendant has committed acts of infringement in this  
2 District and has a regular and established place of business in this District, and  
3 because Defendant is incorporated in this State and has a regular and established  
4 place of business in this District.

5 **GENERAL ALLEGATIONS**

6 9. The '482 Patent is entitled "Massage Device Having Variable Stroke  
7 Length" and issued on January 2, 2024, claiming priority to Application No.  
8 14/317,573, filed on June 27, 2014, and Provisional Application No. 61/841,693,  
9 filed on July 1, 2013. A true and correct copy of the '482 Patent is attached hereto as  
10 Exhibit 1.

11 10. Philip C. Danby and John Charles Danby are the named inventors of  
12 the inventions disclosed in the '482 Patent. Hyperice IP Subco, LLC, a wholly  
13 owned subsidiary of Hyper Ice, Inc., is the owner of the '482 Patent. Hyper Ice, Inc.  
14 is a licensee that has been granted the express, irrevocable right to, *inter alia*,  
15 sublicense, enforce, and defend the '482 Patent.

16 11. This action arises out of Defendant's direct infringement of the '482  
17 Patent.

18 12. Since at least 2018, Hyperice has developed, arranged for the  
19 manufacture of, offered for sale, and sold the Hypervolt line of battery-powered  
20 percussive massage devices, including the Hypervolt Go 2, Hypervolt 2, and  
21 Hypervolt 2 Pro, all of which are covered by one or more claims of the '482 Patent.

22 13. Defendant offers for sale and/or sells products that infringe the '482  
23 Patent, including but not limited to all massage guns sold on muscleguns.com,  
24 including but not limited to the Carbon and Go models.

25 **COUNT 1 – PATENT INFRINGEMENT**

26 14. Hyperice incorporates by reference the allegations in Paragraphs 1-13  
27 above.

1           15. Defendant has infringed and continues to infringe the '482 Patent under  
2 the Patent Laws of the United States, 35 U.S.C §§ 271 *et seq.* Defendant offers for  
3 sale and/or sells the infringing products at issue in this case.

4           16. Defendant infringes at least Claim 1 of the '482 Patent. Defendant  
5 offers for sale and/or sells infringing products, which are battery-powered  
6 percussive massagers that include the following claim limitations, either literally or  
7 under the doctrine of equivalents:

8                 a. a housing;

9                 b. a piston having a proximal end and a distal end, the distal end of  
10 the piston having a substantially cylindrical bore;

11                c. a motor at least partially within the housing and operatively  
12 connected to the proximal end of the piston, wherein the motor is configured to  
13 cause the piston to reciprocate at a first speed;

14                d. a drive mechanism that controls a predetermined stroke length of  
15 the piston; and

16                e. a quick-connect system comprising the distal end of the piston  
17 and a first massaging head, wherein the quick-connect system is configured to  
18 secure the first massaging head to the percussive massager by a proximal end of the  
19 massaging head being slid into the bore while the piston reciprocates the  
20 predetermined stroke length at the first speed.

21           17. Defendant's infringement of the '482 Patent has caused, and will  
22 continue to cause, significant damage to Hyperice. As a result, Hyperice is entitled  
23 to an award of damages adequate to compensate it for the infringement in an amount  
24 that is in no event less than a reasonable royalty pursuant to 35 U.S.C. §284.  
25 Hyperice is also entitled to recover prejudgment interest, post-judgment interest, and  
26 costs.

27           18. As a result of Defendant's infringement of the '482 Patent, Hyperice  
28 has suffered irreparable harm and impairment of the value of its patent rights, and

Hyperice will continue to suffer irreparable harm and impairment of the value of its patent rights, unless and until Defendant is permanently enjoined by this Court from infringing the '482 Patent under 35 U.S.C. §283. Hyperice has no adequate remedy at law and is entitled to a permanent injunction against Defendant.

**PRAYER FOR RELIEF**

WHEREFORE, Hyperice prays for the following relief:

1. That this Court enter judgment of infringement of the '482 Patent in favor of Hyperice and against Defendant;

2. That this Court enter a permanent injunction against Defendant from infringing the '482 Patent;

3. That this Court award Hyperice compensatory damages for infringement of the '482 Patent, as well as interest thereon;

4. That this Court award Hyperice its costs of suit;

5. That this Court declare this an exceptional case under 35 U.S.C. §285 and award Hyperice its attorneys' fees and any other costs incurred in connection with this action;

6. That this Court award Hyperice prejudgment and post-judgment interest; and

7. That this Court grant such further relief as the Court deems just and proper.

1 DATED: January 16, 2024

**MILLER BARONDESS LLP**

2 By: /s/ Ben Herbert

3 BEN HERBERT, CA#277356

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5 Los Angeles, CA 90067

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**DEMAND FOR JURY TRIAL**

8. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs HYPER ICE, INC. and HYPERICE IP SUBCO, LLC hereby demand a trial by jury of all issues triable by jury.

DATED: January 16, 2024 **MILLER BARONDESS LLP**

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